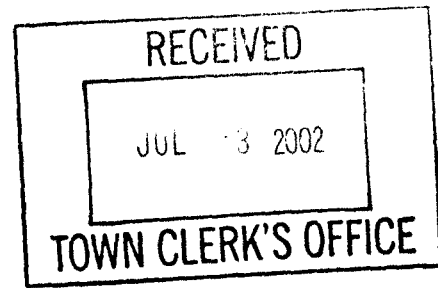


ZONING BOARD OF APPEALS  
Summer Session - July 8, 2002



AGENDA

7:30 p.m. Roll Call - Motion to accept minutes of 6/10/02 as written.

PRELIMINARY MEETINGS:

1. THOM, DAVID - Request for 32.5 ft. front yard for existing deck and addition, plus 63% developmental coverage at residence 104 John Street in an R-4 zone. (13-4-15).
2. LOVANO, JOSEPH - Request for variation of Sec. 48-14A(4) to allow placement of shed closer to road than principle structure at 66 Beaver Brook Road in an R-4 zone. (57-1-48.1).
3. PUGLIA, JANET - Request for 5 ft. side yard and 7 ft. rear yard variances for proposed attached pool deck at 5 Birchwood Drive in an R-4 zone. (39-5-3).

PUBLIC HEARING:

4. WEISSMAN, STEVEN - Request for 9 ft. side and rear yard variances for proposed shed and variation of Sec. 48-14C(1)(c) of Supp. Yard Regs. to permit a 6 ft. fence to exist between principle structure and street at 324 Nina Street in an R-4 zone.
5. BILLIK, MARY - Request for 3 ft. rear yard variance for construction of in-ground pool at 2307 Pioneer Trail in an R-3 zone. (77-9-4).

Formal Decisions: (1) Smith

Pat - 563-4630 (o) Or 562-7107 (h)

July 8, 2002

*Town Clerk.*

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

JULY 8, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
MICHAEL KANE  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

PATRICIA CORSETTI  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I'd like the call to order the July 8, 2002 meeting of the Zoning Board of Appeals. Motion regarding the minutes, move we accept the minutes as written?

MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

PRELIMINARY MEETINGS

THOM, DAVID

MR. TORLEY: Request for 32.5 ft. front yard for existing deck and addition plus 63% developmental coverage at residence at 104 John Street in an R-4 zone.

Mr. David Thom appeared before the board for this proposal.

MR. THOM: The deck in question is this one here and the one here, it's the front deck, side deck and this addition here.

MR. REIS: I'd like to start by commending you on your photographic presentation here, it's terrific, thank you.

MR. TORLEY: The house is beautiful, it's perfect.

MR. THOM: Compliment my wife on that one.

MR. TORLEY: Mike, this lot really has three front yards then?

MR. BABCOCK: Yes, it does. There's two decks that we're dealing with here tonight and one is a deck that fronts on John Street, which is required to have the front yard of 32.5 foot. The other one, Mr. Chairman, the deck goes out towards Route 9W, if you're looking at the thing, it's approximately a 10 by 26 deck, it's got some angles in it. When we looked at that and looking at the pictures that they took and submitted, we give them the benefit of having .5 which was six inches, we feel that maybe we shouldn't give them anything. If you look at the one picture, you're looking straight down at the concrete monument right up against the deck.

MR. KANE: Since it's right up against it, we don't want to give any variation on it?

MR. BABCOCK: That denial I'd like to change, we have

discussed this over some time, he's supposed to have 35 feet he's required, and we're going to say that he has zero.

MR. KANE: Looking for 35 feet as far as the variance?

MR. BABCOCK: Right.

MR. KANE: That's for the deck facing 9W?

MR. BABCOCK: Yes.

MR. TORLEY: This is a truly unique kind of situation. My only concern is that it's, the developmental coverage is unavailable, when the lot is this small, the only thing I will ask you to speak to is driver visibility around the fence, around that deck going right up against the town, make sure that the drivers can see properly.

MR. BABCOCK: Mr. Chairman, I actually went there myself to look at this before we got too far, the right-of-way line for Route 9W is quite a ways in from where the actual pavement is, okay, maybe some of the pictures will explain it.

MR. TORLEY: Yes, they do.

MR. KANE: We'll need to address that.

MR. TORLEY: Address that at the public hearing so that's on the record. You guys have any other questions?

MR. REIS: Accept a motion?

MR. TORLEY: Sure.

MR. REIS: I'll make a motion that we set up Mr. David Thom for his requested variances at 104 John Street.

MR. KANE: Second the motion.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

MR. TORLEY: Because this fronts on a state road, do we have any other notifications we have to go through? There used to be a delay time we have to give them longer than normal to respond.

MR. BABCOCK: That's Orange County Department of Planning, that's gone.

MR. TORLEY: Orange County's gone but I wasn't sure about the State.

MR. KREIGER: No, you had what the requirement was before the County did away with it was that when it was, when you're on a state road, you had to give notice to the County Planning Department, they have received notice that they don't want to know.

MR. BABCOCK: The Department of State would get notified.

LOVANO, JOSEPH

Mrs. Joseph Lovano appeared before the board for this proposal.

MR. TORLEY: Request for variation of Section 48-14A(4) to allow placement of shed closer to road than principle structure at 66 Beaver Brook Road in an R-4 zone.

MRS. LOVANO: I'm Mrs. Joseph Lovano, he couldn't be here tonight, so we want to put a shed for our lawn mower and this is our picture of our property which is 3.19 acres. You can see here's a chart that my husband wrote so that the shed is going to be 250 feet from the street, we have a full acre of woods between the street.

MR. KANE: Could you bring some pictures?

MRS. LOVANO: I have some here, this is our driveway looking up towards the street, you can see it's pretty wooded.

MR. KANE: Where would the shed be in relation to this?

MRS. LOVANO: All the way over here (indicating).

MR. TORLEY: Way off the road.

MRS. LOVANO: I'm here looking up there, so this is where the shed is going to go.

MR. BABCOCK: I don't think at any time of the year you'll be able to see the shed from the road.

MRS. LOVANO: This is where the shed's going to be. My husband took this picture. So it's totally wooded.

MS. CORSETTI: You may remember that the Lovanos were in here for the garage a few years ago.

MR. TORLEY: This is the kind of thing, perhaps we should suggest to the Town Board that there might be some kind of alteration in the code when an accessory

structure is this far back from the road.

MR. BABCOCK: We've tried that but--

MR. REIS: It's too simple.

MR. BABCOCK: Every zone is different, Mr. Chairman, every lot size is different and it keeps going and I was explaining to her earlier it gets, it's very hard to make a blanket rule, other than you just can't have it.

MR. KANE: In the building of the shed, you're not going to create any water hazards or runoffs?

MRS. LOVANO: No, we're just, this is the shed that we're going to get. Do you want to see that? This is the shed that he wants to get from Mr. Shed and it's just going to put it on some gravel.

MR. KANE: Won't be any ponding of water?

MRS. LOVANO: No.

MR. KANE: You'll be cutting down some trees?

MRS. LOVANO: Actually, there's a little clearing where we're putting it.

MR. KANE: Even though you won't be able to see the shed from the road, it's not different than any other sheds in your neighborhood?

MRS. LOVANO: No.

MR. TORLEY: And you're not going to be over any sewer easements or power lines?

MRS. LOVANO: No.

MR. TORLEY: Just again for the record.

MR. KANE: Lot of questions we have to ask to put for the record. Accept a motion?

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MR. TORLEY: If there's no other questions, yes.

MR. KANE: I move we set up Mr. and Mrs. Lovano for a public hearing on the requested variances at 66 Beaver Brook Road.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE



PUGLIA, JANET

Ms. Janet Puglia appeared before the board for this proposal.

MR. TORLEY: Request for 5 ft. side yard and 7 ft. rear yard variances for proposed attached pool deck at 5 Birchwood Drive in an R-4 zone. Were the deck not attached to the house, it wouldn't require a variance, is that the case?

MR. BABCOCK: That's correct.

MRS. PUGLIA: I have the plans to the house previous and I did have a wood deck there already, I want to replace that deck, would that make a difference?

MR. TORLEY: Not really, unless it's really a deck that was put on before 1970 or something.

MRS. PUGLIA: It was, the house was built in 1963.

MR. TORLEY: Deck was put on at the same time?

MRS. PUGLIA: I have no idea when they put the deck on.

MR. KANE: You would have to prove that the deck was there, a C.O. or a permit on the deck.

MR. TORLEY: Or some plans or pictures showing the deck was there before 1966 so you're better off doing this.

MRS. PUGLIA: What else do I have to do?

MR. KREIGER: You have to go through the same process, call it an interpretation.

MR. TORLEY: Same place, you wouldn't gain anything.

MR. KANE: The reason you're putting the deck around the pool?

MRS. PUGLIA: I just want a deck on the pool.

MR. KANE: Safety issues? You have to give us some

reasons, you can't just come in and say I want to do it.

MR. TORLEY: This is an area variance which means you have to balance the benefit to you of having what you want versus the detriment if any to your neighbors or just the fact that you're trying to go against the code.

MRS. PUGLIA: Right now, it's a safety issue because there's land there that's close to the pool, maybe a foot, foot and a half.

MR. KANE: It would make the pool a little bit more secure?

MRS. PUGLIA: Ah-huh.

MR. TORLEY: By attaching it to your house, again, it makes the whole approach to and from the pool safer?

MRS. PUGLIA: I have to because I dug into the hill, people can still right now jump from the hill into the pool.

MR. KANE: You don't have a 4 foot distance from the hill to the pool wall?

MRS. PUGLIA: No.

MR. KANE: Which you need to have by law.

MRS. PUGLIA: Right. How far away does the deck need to be from the house in order for it not to be attached?

MR. BABCOCK: You have to go down off a deck.

MR. KANE: You have to have a separate egress and up another set of stairs on to the other deck, they can't be connected in any way. So you'd come down off the existing deck from the house, down a couple steps on to the grass, up another set of stairs.

MRS. PUGLIA: The pool is only ten foot from the house,

I can't have the set of stairs going from there?

MR. TORLEY: That becomes the practical difficulty you have with meeting the code and that's part of the reason you're asking for the variance that you physically couldn't do it.

MRS. PUGLIA: Okay.

MR. TORLEY: And it would be economically infeasible to move the pool, no place else to put it? People don't move pools.

MRS. PUGLIA: No, you can't move the pool. I can't build any part of the deck right now?

MR. TORLEY: Not if it touches the house. Mike, she can--

MRS. PUGLIA: Can I put any part of the decking on? I need the decking on before July 20.

MR. TORLEY: As long as it doesn't touch the house.

MRS. PUGLIA: Can I put it out towards the driveway?

MR. TORLEY: Technically, you can't.

MR. BABCOCK: You can't get a building permit, you can't get an inspection.

MRS. PUGLIA: Can't you give me a permit for half the deck? If somebody brought in, I know that he put in another set of plans, but if I put the deck on the side, just built half the deck?

MR. TORLEY: I'm sure Mike would permit you to take whatever steps are necessary to secure the pool so that it met safety requirements before you finish the deck up to the point that it met the house.

MRS. PUGLIA: Can I have that picture?

MR. TORLEY: I'll entertain a motion regarding the public hearing on this matter.

MR. KANE: I move we set up Janet Puglia for a public hearing on her requested variances at 5 Birchwood drive.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

MR. BABCOCK: If you look at the diagram that she has there, there's a little wing, if you're facing standing on Birchwood.

MR. TORLEY: Not attached to the house so it's just a---

MR. BABCOCK: That's correct, actually, that wouldn't require, that's not what's required for the variance, it's the other part because it's attached.

MR. KANE: Then that becomes a matter between the applicant and the building department.

MR. TORLEY: This piece of the deck is between you and Mike and the building department.

MR. BABCOCK: We'll take care of that.

MRS. PUGLIA: Are you there tomorrow?

MR. BABCOCK: Yes.

MRS. PUGLIA: You're at where?

MR. BABCOCK: In this building at the other end.

MRS. PUGLIA: You'll allow me to put the deck on tomorrow morning?

MR. BABCOCK: Not tomorrow morning, we'll call you.

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MRS. PUGLIA: Tomorrow?

MR. BABCOCK: You have to give me a couple days.

MR. TORLEY: I'm sure you can work it out.

PUBLIC HEARING:

WEISSMAN, STEVEN

MR. TORLEY: Request for 9 ft. side and rear yard variances for proposed shed and variation of Section 48-14C(1)(c) of Supplemental Yard Regulations to permit a 6 ft. fence to exist between principle structure and street at 324 Nina Street in an R-4 zone.

Mr. Steven Weissman appeared before the board for this proposal.

MR. TORLEY: Anybody wish to speak on this matter?

MS. CORSETTI: For the record, Mr. Weissman and I sent out 81 notices to adjacent property owners on June 26th.

MR. TORLEY: Okay, sir?

MR. WEISSMAN: Okay, with regards to the fence, you can see by this how my property slopes down drastically, there's a 4 foot fence, I have a permit for that, but I need the 6 foot fence when my grandson is almost 3, spends a lot of time over and it's a play house and behind the play house is a whole set of swings and slides and I just don't need people going by on the street and seeing him there. The current fence is about 13 1/2 feet from the street, you can see how far it is from Nina Street, quite a distance away.

MR. TORLEY: New fence will be no closer than this?

MR. WEISSMAN: No, it will be in the same holes, the post holes, yeah.

MR. KANE: With the building of the shed, you're not going to create any water hazards or runoffs?

MR. WEISSMAN: No, it will be on crushed stone and 4 by 4s or 4 by 6s I have under, it will have drainage holes drilled through them so the water can pass freely.

MR. KANE: Shed itself will be similar in design and

size as other sheds in the neighborhood?

MR. WEISSMAN: Absolutely.

MR. TORLEY: This lot has, because of the layout, has two front yards?

MR. WEISSMAN: Yes.

MR. TORLEY: Two front yards require you to have the variance?

MR. WEISSMAN: On the fence, yes, sir.

MR. TORLEY: Were this a single front yard kind of lot, you would not need a variance for the fence?

MR. WEISSMAN: Understood.

MR. KANE: That's not going to impede the vision of any traffic in any way?

MR. WEISSMAN: Absolutely not, no.

MR. KANE: Also not going over any easements?

MR. WEISSMAN: Correct.

MR. REIS: You're actually replacing the 4 foot with the 6 foot fence?

MR. WEISSMAN: Correct, same place.

MR. TORLEY: Where are you going to put the shed?

MR. WEISSMAN: Sure, this spot where some hedges are missing.

MR. TORLEY: Where you have written shed?

MR. WEISSMAN: Yes, sir, and this is the view from the street back.

MR. TORLEY: How close to the back yard will the shed be?

MR. WEISSMAN: I'd say it would be at least a foot and half, two feet from the, on the back of the yard or side yard.

MR. TORLEY: Side yard.

MR. WEISSMAN: I would say the structure of the shed will be two feet, I just asked for a 9 foot variance to give me a little leeway. I don't want to be half an inch.

MR. TORLEY: What's the practical difficult that prevents you from moving the shed, to position it in the yard to fit the zoning code?

MR. WEISSMAN: It would block my whole yard, would not give us free passage.

MR. TORLEY: Is this hedge yours or your neighbors?

MR. WEISSMAN: It's entirely on my property, it will be on, if you were to continue the hedge, it would be on my side of the property.

MR. TORLEY: So this little hedge row is on your property?

MR. WEISSMAN: Yes, sir, entirely.

MR. TORLEY: This is a shed similar, not necessarily identical, but similar to other sheds in the neighborhood?

MR. WEISSMAN: Yes, sir.

MR. KANE: And those have their sheds in the back yards?

MR. WEISSMAN: Yes, sir, in the back corners.

MR. TORLEY: Gentlemen, if you have no questions at this time, I'll open it up to the public. Sir, you have to identify yourself.



MR. KRESEVIC: John Kresevic, I'm Steve's neighbor. Where am I on the property adjacent to where he's putting the shed?

MR. TORLEY: Where the hedge row is.

MR. KRESEVIC: Personally, I don't know whose property that is nor do I care, I talked to Steve about this and I really don't have any problems with it. The only thing that I am not clear on is I'm going to be selling my house in the upcoming months, I just want to make sure that there's no issues where a new person coming in with the shed or when Steve says that he might put a fence of some sort as well by those hedges, I just want to make sure that there's no issues there.

MR. TORLEY: That's not with us, as long as he maintains his, he can put a 4 foot fence right up to your property line, but that's within the zoning code, anybody can do that.

MR. KRESEVIC: Okay.

MR. TORLEY: The only thing we're taking about now is the 6 foot fence towards the road side and the location of the shed.

MR. WEISSMAN: If I can make one point for John, the fence that I said behind the shed I showed you the vinyl fence that was in the hedge, that's the kind of fence, that's the only fence.

MR. KRESEVIC: Like I said, I personally don't have a problem, I just want to protect any new people coming in.

MR. TORLEY: He cannot intrude on your property line, we can't grant somebody a variance to put a shed on your line. He's asking to put it a little closer to the side yard.

MR. KRESEVIC: It will be two feet from the property line, is that correct?

MR. WEISSMAN: It will be over a foot from the property

line.

MR. TORLEY: His variance would permit him to go that close, he doesn't have to go that close, he could, but he does not have to. He may decide when he's getting ready to put it up, maybe I can back off six inches, all we're saying if he's granted a variance, he'd be legally allowed to put a shed a foot from the property line, but he's not required to put it a foot.

MR. KRESEVIC: He can put it right on the property line?

MR. TORLEY: No, he can't get any closer than that.

MR. KRESEVIC: Okay, then there's no issue.

MR. TORLEY: So you have no objection to the granting of this?

MR. KRESEVIC: None at all, I just wanted to make sure any new people were safe.

MR. TORLEY: If there's no other questions from the audience, we'll close the public hearing and go back to the members of the board.

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I make a motion that we grant Mr. Weissman his requested variance for 324 Nina Street.

MR. KANE: Second the motion.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

BILLIK, MARY

MR. TORLEY: Request for 3 ft. rear yard variance for construction of in-ground pool at 2307 Pioneer Trail in an R-3 zone.

Mr. and Mrs. Billik appeared before the board for this proposal.

MR. TORLEY: Before we start, there's no one in the audience regarding this matter.

MR. KANE: You want to tell us what you want to do?

MRS. BILLIK: We'd like to put an in-ground pool 16 foot wide, but our back yard is only 33 feet deep so therefore, we need, we only have 7 foot on the rear property line, we request a 3 foot variance because it has to start ten foot from the house.

MR. BILLIK: The back of the property borders on the area where we're going to build, the Town of New Windsor Sports Complex, we got a copy of the plan, it appears somewhere passed the rock wall there will be a parking area and a hiking trail and we don't see any impacts on the environment. We have spoken to the pool person as far as any kind of water or drainage problems, all those will be addressed in the construction and excavation of the pool. Reason why we need the variance is because coming out of the back of the house, I'm not sure if the pictures detects that, there's 6 steps, so we need to give a little leeway on the house side of the property, also at the end of the house, we have a Bilco door which extends from the structure.

MR. KANE: Who's doing your pool?

MR. BILLIK: Paragon Pools.

MR. TORLEY: Mike, also, they have to be ten foot from the house for a pool?

MR. BABCOCK: No, actually, what they want to do is they don't want to come down the bottom of the stairs

and fall in the pool, so they need the ten foot, the steps are probably out three or four foot now, you don't have to be ten foot, but for safety reasons, they really need to be.

MR. BILLIK: Would hate to have them fall into the pool or on the ground.

MR. TORLEY: They'd fall into the fence around your pool.

MR. BILLIK: Right.

MS. CORSETTI: For the record, Mrs. Billik only had to send out four notices. That never happens. We did that on June 26th.

MR. BILLIK: We tried to check the area, I guess this would be the first inground pool in the development, but there are other people in the complex who have above-ground pools and some we notice were close to the property line as ours is going to be so--

MS. CORSETTI: Everybody up there is going to come in, all 400 and how many homes, 421.

MR. TORLEY: Mike, is there any, you're the pool expert, is there any problem with excavation one foot from the property line, anything like that?

MR. KANE: No, all depends on what's underneath the ground, but other than that, no, shouldn't be a problem.

MR. BABCOCK: Actually, it's very good material, Mr. Chairman, we excavated right behind their house probably about 20 foot deep, all bank run material, we're doing the excavation where the parking lot is going.

MR. KANE: You're putting a fence up?

MR. BILLIK: Absolutely, we just wanted to check with the requirement, four or six foot?

MR. BABCOCK: Four foot.

MR. KANE: Self-closing, self-latching.

MR. TORLEY: You may wish to come in at some point once the foliage is gone and the pool's in. One of the variances that they maybe requesting would be for fences in the back which is--

MRS. BILLIK: We noticed on the plan looked like there will be a hiking trail so there will be people constantly walking so to--

MR. TORLEY: The law says you can only have, it can be, can't have a 6 foot fence even in the back.

MR. BABCOCK: Yes, you can.

MR. TORLEY: But 6 feet in the back can't be over 6 feet but there's nothing in the code that says you can't put all the plantings you want, that's perfectly okay.

MR. KANE: Better off with the fence because of the pool.

MRS. BILLIK: But if we want to put shrubs right behind the fence, that will work.

MR. BILLIK: Do you know if there's going to be a fence by the hiking trail or parking lot?

MR. BABCOCK: As of now, no.

MRS. BILLIK: Leave the natural rock wall as far as you know?

MR. BABCOCK: Yes.

MR. TORLEY: Rock wall is actually not on your property.

MR. BABCOCK: That's ours, yeah, and we're not removing it, we're as close to you as we're going to be.

MR. BILLIK: Hiking trail will be--

MR. BABCOCK: Up on the plateau before it drops off, that's where we planned on the hiking trail.

MR. KANE: Building of the pool isn't going to go over any easements or anything along those lines?

MR. BILLIK: No easement problems, nothing, no drainage.

MR. RIVERA: Not creating any water hazards?

MR. BILLIK: No water or environmental, drainage will be taken care of.

MR. TORLEY: Again, this variance if it were granted would not relieve you from any other requirements for the pool as far as building, electrical, fencing, all that you must still abide by.

MRS. BILLIK: Yes, I understand.

MR. KANE: Accept a motion?

MR. TORLEY: If there are no other questions, yes.

MR. KREIGER: Yes.

MR. KANE: Move that we approve Mary Billik's request for three foot rear yard variance for construction of an inground pool at 2307 Pioneer Trail.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

FORMAL DECISION

1. SMITH

MR. KANE: I move that we approve the formal decision as written.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

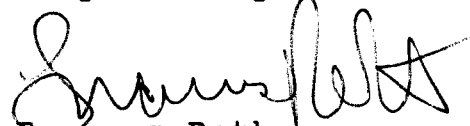
MR. RIVERA: I move we adjourn.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

Respectfully Submitted By:

  
Frances Roth  
Stenographer

7/24/02